

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NEO4J, INC.,

Plaintiff,

v.

GRAPH FOUNDATION, INC.,

Defendant.

Case No. 19-cv-06226-EJD (SVK)

**ORDER ON JOINT DISCOVERY
LETTER BRIEFS**

Re: Dkt. Nos. 50, 51

On June 25, 2020, the Court held a telephonic hearing on the parties' joint discovery letter briefs concerning Plaintiff Neo4j, Inc.'s ("Neo4j") requests to compel Defendant Graph Foundation, Inc. ("GFI") to provide further responses to requests for production and interrogatories. Dkt. 50, 51. For the reasons discussed at the hearing, the Court **ORDERS** as follows:

REQUESTS FOR PRODUCTION

1. Because Neo4j has not demonstrated that the party from whom documents are requested, GFI, has control—*i.e.*, the legal right to obtain the documents upon demand; *see In re Citric Acid Litig.*, 191 F.3d 1090, 1107 (9th Cir. 1999)—of responsive documents in the possession of third parties AtomRain or GraphGrid, Neo4j's request to compel GTI to search for and produce documents held by AtomRain and GraphGrid is **DENIED**. Nothing in this order prohibits Neo4j from seeking documents from AtomRain, GraphGrid, or any other third party by subpoena.
2. GFI's objections in response to RFPs 14, 16, and 17 on the basis of donor privacy are **OVERRULED**. Neo4j has made a sufficient showing of relevance at this stage of the proceedings. Accordingly, Neo4j's request to compel further responses to those RFPs is **GRANTED**. GFI's supplemental responses and any production of additional responsive documents must be provided to Neo4j by **July 8, 2020**.

INTERROGATORIES

The Court **ORDERS** GFI to supplement its interrogatory responses as follows no later than **July 8, 2020**:

Interrogatory No. 2: GFI must provide the material facts (*i.e.*, who, what, where, when, why and how) concerning the development of GFI's open source software product ONgDB.

Interrogatory No. 5: GFI must provide the material facts concerning Mr. Suhy's involvement in the inception, formation, and operation of GFI, including Mr. Suhy's involvement in development of ONgDB.

Interrogatory No. 6: GFI's objections concerning donor privacy are **OVERRULED**. GFI must provide the material facts concerning its relationship with iGov Inc.

Interrogatory No. 7: GFI's objections concerning donor privacy are **OVERRULED**. GFI must provide the material facts concerning its relationship with GraphGrid, Inc.

Interrogatory No. 8: GFI's objections concerning donor privacy are **OVERRULED**. GFI must provide the material facts concerning its relationship with AtomRing.

Interrogatory No. 9: GFI's objections concerning donor privacy are **OVERRULED**. GFI must provide the material facts concerning its relationship with GrapheneDB.

Interrogatory No. 10: To the extent GFI can identify any person or entity who has downloaded, or who is reasonably believed to have downloaded, a copy of ONgDB software, GFI must provide as much of the requested information as to that person or entity as is in GFI's custody, possession or control.

Interrogatory No. 11: GFI's objections concerning donor privacy are **OVERRULED**. GFI must identify the person or entity who made each charitable donation to GFI, the nature of each donation, and the date of each donation. Insofar as Neo4j requests that the Court compel GFI to provide other information in response to this interrogatory, that request is **DENIED**.

Interrogatory No. 13: GFI must either (1) state that it contends that all source code files found at the links are covered by the license referred to in this interrogatory, or (2) specify those source code files that it contends are covered by the license.

Interrogatory No. 16: GFI must provide all requested information it has regarding the support documentation identified in this interrogatory. If such information is not available to GFI,

1 it must explain why.

2 **Interrogatory No. 17:** The Court finds that this contention interrogatory is timely. GFI
3 must supplement its response to provide all responsive material facts regarding the contention
4 identified in this interrogatory.

5 **Interrogatory No. 18:** The Court finds that this contention interrogatory is timely. GFI
6 must supplement its response to provide all responsive material facts regarding the contention
7 identified in this interrogatory.

8 **Interrogatory No. 20:** The Court finds that this interrogatory seeks a level of technical
9 analysis that is not appropriate for an interrogatory and therefore **DENIES** Neo4j's request for a
10 supplemental response to this interrogatory.

11 Nothing in this order prohibits GFI from responding to any interrogatory by specifying
12 business records pursuant to Federal Rule of Civil Procedure 33(d). Moreover, this order does not
13 alter the parties' obligations to supplement or correct their discovery responses as required under
14 Federal Rule of Civil Procedure 26(e).

15 **SO ORDERED.**

16 Dated: June 25, 2020

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19 SUSAN VAN KEULEN
20 United States Magistrate Judge
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